

(2) Upon default by the Borrower, the holder of pledged collateral shall take such actions as the Secretary (subject to any applicable Intercreditor Agreement) may reasonably require to provide for the care, preservation, protection, and maintenance of such collateral so as to enable the United States to achieve maximum recovery from the pledged assets. The Secretary shall reimburse the holder of collateral for reasonable and appropriate expenses incurred in taking actions required by the Secretary (unless otherwise provided in applicable agreements). Except as provided in § 609.15, no party may waive or relinquish, without the consent of the Secretary, any collateral securing the Guaranteed Obligation to which the United States would be subrogated upon payment under the Loan Guarantee Agreement.

(b) In the event of a default, the Secretary may enter into such contracts as the Secretary (subject to any applicable Intercreditor Agreement) determines are required or appropriate to care for, preserve, protect or maintain the collateral. The cost of such contracts may be charged to the Borrower.

**§ 609.17 Audit and access to records.**

(a) The Loan Guarantee Agreement and related documents shall provide that:

(1) The Eligible Lender, or DOE in conjunction with the Federal Financing Bank where loans are funded by the Federal Financing Bank or other Holder or other party servicing the Guaranteed Obligations, as applicable, and the Borrower, shall keep such records concerning the project as is necessary, including the Pre-Application, Application, Term Sheet, Conditional Commitment, Loan Guarantee Agreement, Credit Agreement, mortgage, note, disbursement requests and supporting documentation, financial statements, audit reports of independent accounting firms, lists of all project assets and non-project assets pledged as security for the Guaranteed Obligations, all off-take and other revenue producing agreements, documentation for all project indebtedness, income tax returns, technology agreements, documentation for all permits and regulatory approvals and all other docu-

ments and records relating to the Eligible Project, as determined by the Secretary, to facilitate an effective audit and performance evaluation of the project; and

(2) The Secretary and the Comptroller General, or their duly authorized representatives, shall have access, for the purpose of audit and examination, to any pertinent books, documents, papers and records of the Borrower, Eligible Lender or DOE or other Holder or other party servicing the Guaranteed Obligation, as applicable. Such inspection may be made during regular office hours of the Borrower, Eligible Lender or DOE or other Holder, or other party servicing the Eligible Project and the Guaranteed Obligations, as applicable, or at any other time mutually convenient.

(b) The Secretary may from time to time audit any or all items of costs included as Project Costs in statements or certificates submitted to the Secretary or the servicer or otherwise, and may exclude or reduce the amount of any item which the Secretary determines to be unnecessary or excessive, or otherwise not to be an item of Project Costs. The Borrower will make available to the Secretary all books and records and other data available to the Borrower in order to permit the Secretary to carry out such audits. The Borrower will represent that it has within its rights access to all financial and operational records and data relating to Project Costs, and agrees that it will, upon request by the Secretary, exercise such rights in order to make such financial and operational records and data available to the Secretary. In exercising its rights hereunder, the Secretary may utilize employees of other Federal agencies, independent accountants, or other persons.

**§ 609.18 Deviations.**

To the extent that such requirements are not specified by the Act or other applicable statutes, DOE may authorize deviations on an individual request basis from the requirements of this part upon a finding that such deviation is essential to program objectives and the special circumstances stated in the request make such deviation clearly in the best interest of the Government.